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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/664,079	09/17/2003	Shoji Yuyama	2003_1322	5064

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EXAMINER

DESAI, HEMANT

ART UNIT PAPER NUMBER

3721

DATE MAILED: 07/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/664,079	Applicant(s) YUYAMA ET AL.	
	Examiner Hemant M. Desai	Art Unit 3721	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 September 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☒ Certified copies of the priority documents have been received in Application No. 09/828,896.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

1. The abstract of the disclosure is objected to because on page reference no. "66", page 13, line 4, should be "61"; "food should be "hood", page 16, line 3; reference no. "49", page 18, line 25, should be "43"; reference no. "301a", page 26, line 25, should be "300a". Furthermore, applicant is using the abbreviated term "LED" throughout the specification. Applicant is respectfully advised to explain in the specification that what the abbreviated term "LED" stands for. Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 2-3, 6 and 7 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

In claims 2, lines 1-5, and in claim 3, lines 14-17, applicant claims that "the tablets can not be fed from the mounting base unless the opened condition and subsequent closed condition of the shutter is detected by the sensor.". The specification explains on page 27, lines 2, that "the tablets can not be fed from the motor base 32 unless the opened condition of the shutter 300 is detected." When the tablets cannot be

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fed from the mounting base? When the opened condition and subsequent closed condition of the shutter is detected by the sensor as claimed in claims 2 and 3 or when the opened condition of the shutter is detected by the sensor as explained in the specification.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

5. Claims 1-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The phrase "mounting base" (claim 1, lines 3 and 5; claim 2, line 3; claim 3, lines 3 and 15;) lacks antecedent basis, since applicant is using the phrase "motor base" throughout the specification. Further, phrases, for example: "the tablet vessel" (claims 1 and 3, lines 9-10), "the sensor" (claim 3, line 17) lack proper antecedent basis.

Double Patenting

6. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

7. Claims 1-7 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1-5 of U.S. Patent No. 6,644,504 in view of Bartur (6263259).

Regarding claims 1 and 3, of present application, it is claimed that a plurality of mounting bases on which respective feeder vessel are mounted. Claim 1 of the present U.S. Patent ('504) discloses a plurality of feeder vessels and a feeder vessel is mounted on the mounting base (motor base), therefore it is inherent that the plurality of feeder vessels are mounted on the mounting bases. Further, in claim 1 of present application it is claimed that the LED is turned off when the sensor detects the opening operation of the shutter. Claim 4 of U.S. Patent ('504) discloses that the indicator is turned on to indicate the tablets (specially administrative tablets) are fed into the tablet reserving member, and claim 5 of U.S. Patent ('504) discloses a sensor for detecting opening or closing of the lower opening of the tablet reserving member by the shutter. Therefore it is inherent that the indicator is turned off when the tablets are disposed in the tablet

vessel by opening the lower opening of the reserving member by opening the shutter.
Further, the indicator has to turn off to turn on.

Claim 4 of U.S. Patent ('504) discloses the indicator but does not expressly disclose that the indicator is an LED. However, Bartur teaches a LED indicator (22, fig. 1A) to indicate when the power is being supplied and a ready-to-dispense state in a tablet dispensing system. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide LED indicator as taught by Bartur in the tablet packing apparatus of present application to indicate when the tablets are fed to the tablet reserving member.

Regarding claim 2 of the present application, claim 5 of U.S. Patent ('504) discloses that the tablets can be fed only when the sensor detects closing of the lower opening of the tablet reserving member.

Regarding claims 4-7 of the present application, claim 3 of U.S. Patent ('504) discloses that the shutter is biased and the tablet vessel and the shutter is formed with an arc-like cut-out portion with which the tablet vessel engages to open the shutter against the biased force to open the lower opening of the tablet reserving member.

Conclusion

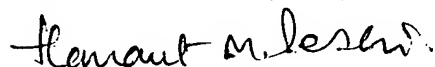
8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hemant M. Desai whose telephone number is (571) 272-4458. The examiner can normally be reached on 7:00 AM-5: 30 PM, Mon-Thurs..

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I. Rada can be reached on (571) 272-4467. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Hemant M Desai
Examiner
Art Unit 3721

HMD